

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD**

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Alcoholic Beverage Control Board (“Board”), pursuant to the authority set forth in D.C. Official Code § 25-351(a) (2008 Supp.) and section 303 of Title 23 of the District of Columbia Municipal Regulations (“DCMR”), 51 DCR 4309 (April 30, 2004), hereby gives notice of its intent to adopt emergency and proposed rules that amend existing subsection 307.3 of Title 23 DCMR by modifying the existing West Dupont Circle Moratorium Zone to exclude the 1500 block of Connecticut Avenue, N.W. The proposed rules would also allow an existing restaurant licensee in the 1600 block of 21st Street, N.W., to apply to change its license class from a restaurant to a multipurpose facility.

The Board received a written letter from Advisory Neighborhood Commission (ANC) 2B, dated August 12, 2009 requesting that the Board amend the existing West Dupont Circle Moratorium Zone, as permitted by D.C. Official Code § 25-351(f), to carve out the 1500 block of Connecticut Avenue N.W. ANC 2B’s letter indicates that the buildings on the 1500 block of Connecticut Avenue N.W. have been vacant for several years and an opportunity now exists to place restaurants in that vacant space. ANC 2B states that its request is also supported by the Dupont Circle Citizen’s Association, Historic Dupont Circle Main Streets and Dupont Circle Merchants and Professionals Association. Additionally the District of Columbia Association of Beverage Alcohol Wholesalers has indicated its written support for this rulemaking.

At the September 9, 2009 public hearing, the Board received support for ANC 2B’s proposal from the Dupont Circle Merchants and Professionals Association. The Board also received testimony from the Phillips Collection requesting that the Board allow an existing restaurant licensee in the 1600 block of 21st Street, N.W., to apply for a multipurpose facility license.

The Board found ANC 2B’s request to be appropriate in its entirety and is adopting its recommendation. The Board also found appropriate the request of the Phillips Collection to allow for existing restaurant licenses in the 1600 block of 21st Street, NW, to be eligible to apply for a multipurpose facility license.

The statements set forth above reflect the written reasons for the Board’s decision as required by subsection 303.1 of Title 23 DCMR (2004).

The emergency action is necessary to ensure the public health and welfare of the West Dupont Circle Moratorium Zone. Specifically, the testimony of ANC 2B indicated that the issuance of additional restaurant licenses is necessary to contribute to the revitalization of a neighborhood that has endured vacant properties due to the departure of a large corporation that once occupied the 1500 block of Connecticut Avenue N.W.

These emergency rules were adopted by the Board on September 16, 2009. The rules became effective on that date. The emergency rules will expire 120 days from the date of effectiveness or upon publication of a Notice of Final Rulemaking in the D.C. Register, whichever occurs first.

The Board gives notice of its intent to adopt these proposed rules in not less than thirty (30) days from the date of publication of this notice in the D.C. Register.

Pursuant to D.C. Official Code § 25-211(b)(2) (2008 Supp.), these proposed rules are also being transmitted to the Council of the District of Columbia, and the final rules may not become effective until their approval by Council resolution during the ninety (90) day period of Council review.

Title 23 DCMR, Chapter 3 (Limitations on Licenses), is amended by replacing the existing subsection 307.3 to read as follows:

307.3 All hotels, whether present or future, shall be exempt from the West Dupont Circle Moratorium Zone. The 1500 block of Connecticut Avenue, NW, shall also be exempt from the West Dupont Circle Moratorium Zone. Notwithstanding the limitation on licenses contained in subsection 307.1, an existing Class CR or DR licensee in the 1600 block of 21st Street, N.W., shall be eligible to apply to change its license class from a restaurant to a multipurpose facility. Any license class change applications approved by the Board from a restaurant to a multipurpose facility in the 1600 block of 21st Street, NW, shall continue to count against the limit of permitted restaurant licenses by reducing the number of permitted restaurant licenses by one (1) for the duration of the West Dupont Circle Moratorium.

Copies of the proposed rulemaking can be obtained by contacting Martha Jenkins, General Counsel, Alcoholic Beverage Regulation Administration, 941 North Capitol Street, N.E., 7th Floor, Washington, D.C. 20002. All persons desiring to comment on the proposed rulemaking must submit their written comments, not later than thirty (30) days after the date of publication of this notice in the D.C. Register, to the above address.